

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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TIMOTHY CROWLEY,

Plaintiff,

ORDER

v.

12-cv-486-wmc

JANEL NICKEL, *et al.*,

Defendants.

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State inmate Timothy Crowley filed a proposed civil action for damages stemming from the use of an allegedly defective product, namely, an electronic device known as a REACT (Remote Electronically Activated Control Technology) shock belt. He sues three supervisory officials employed by the Wisconsin Department of Corrections, the manufacturer and an insurance company for injuries that he reportedly sustained while wearing this device on September 10, 2011. Crowley has now filed a motion to withdraw his complaint, explaining that it was filed here in error.

The court construes Crowley's motion as a request for voluntary dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(A), which allows dismissal upon the plaintiff's request before the opposing party serves either an answer or a motion for summary judgment. Because no responsive pleading has been requested or received in this case, the motion will be granted and the case will be dismissed without prejudice. *See Smith v. Potter*, 513 F.3d 781, 782-83 (7th Cir. 2008) (observing that a plaintiff's motion for voluntary dismissal filed before the opposing party serves either an answer or dispositive

motion automatically effects dismissal of the case); *see also Nelson v. Napolitano*, 657 F.3d 586, 587-88 (7th Cir. 2011) (discussing the effect of a voluntary dismissal under Rule 41(a)) (collecting cases).

## ORDER

IT IS ORDERED that:

1. The motion for voluntary dismissal filed by plaintiff Timothy Crowley (Dkt. # 16) is GRANTED.
2. The complaint is DISMISSED without prejudice pursuant to Fed. R. Civ. P. 41(a). The clerk's office shall terminate all pending motions and close this case.

Entered this 25th day of June, 2013.

BY THE COURT:

/s/

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WILLIAM M. CONLEY  
District Judge